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3:01-CV-00422 AT & T V. BROCKSTAR TRADING

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CMP.

Jeff Reich — 067250
THE REICH LAW FIRM
1312 EAST SHAW, SUITE 101
FRESNO, CALIFORNIA 93710

FILED

(SPACE BELOW FOR FILING STAMP ONLY)

01 MAR -9 PM 3:31

(559) 221-1191

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ATTORNEY FOR: Plaintiff

BY:

B. Reed

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

01 CV 0422

L (LAB)

AT&T,

Plaintiff,

vs.

Brockstar Trading Limited and
Does 1 to 10, inclusive,

Defendants.

Case No.

COMPLAINT

Plaintiff AT&T, by its attorneys, alleges:

1. AT&T is a corporation with its principal place of business located at 32 Avenue of the Americas, New York, New York.

2. At all times herein mentioned, defendant Brockstar Trading Limited was a business entity, form unknown, doing business in Newport Beach, California.

3. This Court has jurisdiction over this claim under 28 U.S.C. Section 1391, since defendants' liability arises under a tariff filed with the Federal Communications Commission (the "F.C.C."). Venue is proper under 28 U.S.C. Section 1391.

4. Plaintiff is unaware of the true names and capacities of the defendants sued herein as Does 1 through 10, inclusive.

1 Plaintiff will amend this complaint when the same have been
2 ascertained. Plaintiff is informed and believes and thereon
3 alleges that each of the fictitiously named defendants is
4 responsible for the obligations herein set forth and is liable to
5 plaintiff as herein alleged.

6 5. The Interstate Division of AT&T is an interstate common
7 carrier that provides interstate and foreign communications
8 services under tariffs filed with the F.C.C. These tariffs have
9 the force of law.

10 6. At all times relevant to this action, AT&T provided
11 commercial long distance service pursuant to Tariff F.C.C. No. 1.
12 Section 6.13.4 of AT&T Tariff F.C.C. and Tariff F.C.C. No. 1.
13 Section 6.13 of AT&T Tariff F.C.C. No. 1 makes defendants
14 responsible for the payment of bills for long distance calls and
15 services. Pursuant to Section 2.5 of AT&T Tariff No. 1, payment
16 is due upon presentation of the bill.

17 7. Defendants were billed monthly from January 4, 1999
18 through September 4, 1999 on their AT&T CustomNet Option S
19 service. AT&T mailed defendants a final bill for \$5,796.03
20 representing total charges due under the tariff. Pursuant to AT&T
21 Tariff F.C.C. No. 1, payment was due and payable to AT&T upon
22 presentation of the bill.

23 8. Defendants were billed monthly from January 4, 1999
24 through October 4, 2000 on their CustomNet Service. AT&T mailed
25 defendants a final bill for \$31,415.23 representing total charges
26 due under the tariff. Pursuant to AT&T Tariff F.C.C. No. 1,
27 payment was due and payable to AT&T upon presentation of the bill.

28 //

1 9. Defendants have failed and refused to pay the entire
2 charges totalling \$5,796.03 demanded in the final bill dated
3 September 4, 1999.

4 10. Defendants have failed and refused to pay the entire
5 charges totalling \$31,415.23 demanded in the final bill dated
6 October 4, 2000.

7 11. After deducting payments and credits, there remains
8 unpaid a balance due and owing to AT&T for long distance service
9 in the amount of \$36,697.85.

10
11 WHEREFORE, AT&T prays the Judgment be entered as follows:

12 1. Awarding AT&T \$36,697.85 in tariffed charges for
13 services provided;

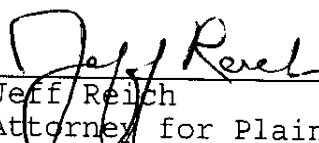
14 2. Awarding AT&T pre-judgment interest from October 4,
15 1999, on the sum of \$5,582.62, and prejudgment interest from
16 November 4, 2000, on the sum of \$31,115.23;

17 3. Awarding AT&T its costs and disbursements, including
18 reasonable attorney's fees of prosecuting this action;

19 4. Granting AT&T such other and further relief as this
20 Court may deem just and proper in the circumstances.

21
22 Dated: February 28, 2001.

Respectfully submitted,

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25 Jeff Reich
26 Attorney for Plaintiff
27
28

Jeff Reich — 067250
THE REICH LAW FIRM
1312 EAST SHAW, SUITE 101
FRESNO, CALIFORNIA 93710

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ATTORNEY FOR Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

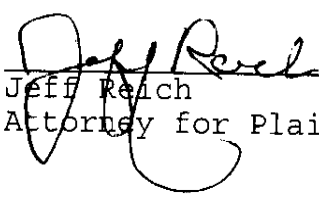
AT&T,)	Case No.
)	
Plaintiff,)	CERTIFICATE AS TO
)	INTERESTED PARTIES
vs.)	
)	
Brockstar Trading Limited and)	
Does 1 to 10, inclusive,)	
)	
Defendants.)	

The undersigned, counsel of record for plaintiff, AT&T, certifies that the following listed parties have a direct pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal.

AT&T, plaintiff

Brockstar Trading Limited, defendant

Dated: February 28, 2001.


Jeff Reich
Attorney for Plaintiff

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

AT&T

DEFENDANTS

Brockstar Trading Limited and Does 1 to 10,
including

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF New York
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Orange
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Jeff Reich, #067250 (559) 221-1191
The Reich Law Firm
1312 East Shaw, Suite 101
Fresno, CA 93710

ATTORNEYS (IF KNOWN)

'01 CV 0422 L (LAB)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
• 2 U.S. Government Defendant • 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PT | DEF | | PT | DEF |
|---|-------|-------|---|-------|-------|
| Citizen of This State | • 1 • | • 1 • | Incorporated or Principal Place of Business in This State | • 4 • | • 4 • |
| Citizen of Another State | • 2 • | • 2 • | Incorporated and Principal Place of Business in Another State | • 5 • | • 5 • |
| Citizen or Subject of a Foreign Country | • 3 • | • 3 • | Foreign Nation | • 6 • | • 6 • |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY). 28 U.S.C. § 1391; AT&T F.C.C. Tariffs No. 1, Section 2.5, 6.13 and 6.13.4. An action to collect for foreign and interstate communications charges.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<ul style="list-style-type: none"> 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veterans Benefits 160 Stockholders Suits 190 Other Contract 195 Contract Product Liability 	<p>PERSONAL INJURY</p> <ul style="list-style-type: none"> 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury <p>PERSONAL INJURY</p> <ul style="list-style-type: none"> 362 Personal Injury - Medical Malpractice 365 Personal Injury - Product Liability 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <ul style="list-style-type: none"> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability 	<ul style="list-style-type: none"> 610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of Property 21 USC881 630 Liquor Laws 640 RR & Truck 650 Airline Regs 660 Occupational Safety/Health 690 Other <p>LABOR</p> <ul style="list-style-type: none"> 710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 730 Labor/Mgmt. Reporting & Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act 	<ul style="list-style-type: none"> 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <ul style="list-style-type: none"> 820 Copyrights 830 Patent 840 Trademark <p>SOCIAL SECURITY</p> <ul style="list-style-type: none"> 861 HIA (13958) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(e)) <p>FEDERAL TAX SUITS</p> <ul style="list-style-type: none"> 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS - Third Party 26 USC 7609 	<ul style="list-style-type: none"> 400 State Reappointment 410 Antitrust 430 Banks and Banking 450 Commerce/ICC Rates/etc. 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 810 Selective Service 850 Securities/Commodities Exchange 875 Customer Challenge 12 USC 891 Agricultural Acts 892 Economic Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determination Under Equal Access to Justice 950 Constitutionality of State 890 Other Statutory Actions
<p>REAL PROPERTY</p> <ul style="list-style-type: none"> 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Tort to Land 245 Tort Product Liability 290 All Other Real Property 	<p>CIVIL RIGHTS</p> <ul style="list-style-type: none"> 441 Voting 442 Employment 443 Housing/Accommodations 444 Welfare 440 Other Civil Rights 	<p>PRISONER PETITIONS</p> <ul style="list-style-type: none"> 510 Motions to Vacate Sentence Habeas Corpus 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prisoner Conditions 		

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding • 2 Removal from State Court • 3 Remanded from Appellate Court • 4 Reinstated or Reopened • 5 Transferred from another district (specify) • 6 Multidistrict Litigation • 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER Fed. R. Civ. P. 23

DEMAND \$ 36,697.85

Check YES only if demanded in complaint:

JURY DEMAND: • YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

DATE February 28, 2001

Docket Number

SIGNATURE OF ATTORNEY OF RECORD

#067169 \$150.00 BLVD

\\ODMA\PCDOCS\WORDPERFECT\22816\ January 24, 2000 (3:10pm)